

ASSEMBLY BILL

No. 259

Introduced by Assembly Member Hancock

February 8, 2005

An act to add Section 25847 to the Government Code, relating to solid waste collection liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as introduced, Hancock. Contra Costa County solid waste: liens.

Existing law grants various powers to county boards of supervisors, such as the abatement of nuisances, for which it may impose assessments to pay the costs of services performed and authorizes recordation of liens to enforce the assessments.

This bill would enact a procedure that authorizes the Board of Supervisors of Contra Costa County to impose assessments against parcels and record liens for unpaid solid waste collection services.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25847 is added to the Government
- 2 Code, to read:
- 3 25847. (a) If the Board of Supervisors of Contra Costa
- 4 County provides solid waste collection service by exclusive or
- 5 nonexclusive franchise with one or more solid waste enterprises,
- 6 and by ordinance, provides that subscription to solid waste
- 7 collection services is compulsory for occupied residential
- 8 parcels, the board may, by ordinance, provide for the collection

1 of amounts unpaid and owed to the franchised solid waste
2 enterprise for a period of 60 days or more, as provided in this
3 section.

4 (b) At a minimum, the ordinance shall require that the owner
5 of the parcel, and anyone known to be in possession of the
6 parcel, be given notice by mail of the amounts owed to the
7 franchised solid waste enterprise, and be given an opportunity to
8 appear and be heard before the board of supervisors. The
9 ordinance shall require that the board shall conduct a hearing to
10 hear any objections and protests of the property owner and
11 anyone in possession of the property, and based upon the record,
12 make findings as to the amounts owed, if any.

13 (c) The ordinance may authorize the board, if it finds that
14 amounts are owed to the solid waste board of supervisors, and if
15 the owner or other person in possession of the parcel fails to pay
16 the unpaid amounts within the time limit specified by the board,
17 to order the unpaid amounts to be specially assessed against the
18 parcel. The ordinance may provide that the assessment may be
19 collected at the same time and in the same manner as ordinary
20 county taxes are collected, and may be subject to the same
21 penalties and the same procedure and sale in case of delinquency
22 as are provided for ordinary county taxes. The ordinance may
23 provide that the county's administrative costs of collecting the
24 unpaid charges may be included in the special assessment if the
25 owner and any other person in possession of the parcel is given
26 written notice before the hearing before the board, and the board
27 finds that amounts are owed to the franchised solid waste
28 enterprise. All laws applicable to the levy, collection, and
29 enforcement of county taxes are applicable to the special
30 assessment.

31 (d) If the board of supervisors specially assesses the unpaid
32 amounts, including any administrative costs, against the parcel,
33 the board may also cause a notice of lien to be recorded. The
34 notice, at a minimum, shall identify the record owner and the
35 possessor of the property. If those parties are different, the notice
36 shall set forth the date upon which the payment was ordered by
37 the board. The notice shall include a description of the real
38 property subject to the lien, and the amount of the special
39 assessment.

1 (e) If the board of supervisors does not cause the recordation
2 of a notice of lien pursuant to subdivision (d), and any real
3 property to which the costs relates has been transferred or
4 conveyed to a bona fide purchaser for value, or a lien of a bona
5 fide encumbrancer for value has been created and attaches to that
6 property, prior to the date on which the first installment of county
7 taxes would become delinquent, then the special assessment shall
8 not result in a lien against that real property but shall be
9 transferred to the unsecured roll for collection.

10 (f) The recordation of a notice of lien pursuant to subdivision
11 (d) has the same effect as recordation of an abstract of a money
12 judgment recorded pursuant to Article 2 (commencing with
13 Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2
14 of the Code of Civil Procedure. The lien created has the same
15 priority as a judgment lien on real property and continues in
16 effect until released. Upon order of the board of supervisors, or
17 any county officer authorized by the board to act on its behalf, a
18 lien created under this section may be released or subordinated in
19 the same manner as a judgment lien on real property may be
20 released or subordinated.

21 (g) The board of supervisors may delegate the hearing
22 required by subdivision (b) to a hearing body designated by the
23 board. The hearing body shall make a written recommendation to
24 the board. The board may adopt the recommendation without
25 further notice of hearing, or may set the matter for a de novo
26 hearing before the board.

27 (h) The board of supervisors may, by ordinance, delegate to a
28 hearing officer appointed pursuant to Section 27720 the powers
29 and duties specified in this section.

30 (i) All moneys collected by the county on behalf of the
31 franchised solid waste enterprise shall be paid by the county to
32 the solid waste enterprise upon collection, or retained by the
33 county if the county elects to pay the solid waste enterprise
34 before the county collects the unpaid amounts.

35 (j) As used in this section, "solid waste enterprise" has the
36 meaning ascribed to it in Section 49504 of the Public Resources
37 Code.

38 SEC. 2. The Legislature finds and declares that there are
39 unique circumstances concerning the payment for the collection
40 of solid waste in Contra Costa County necessitating the

1 enactment of the procedures contained in this act. It is therefore
2 declared that a general law cannot be made applicable within the
3 meaning of Section 16 of Article 16 of the Constitution, and that
4 the enactment of this act as a special law is necessary.

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